

**STATEMENT OF
EDWARD WYTKIND, PRESIDENT
TRANSPORTATION TRADES DEPARTMENT, AFL-CIO**

**BEFORE THE
HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON RAILROADS
ON
RAILROAD SECURITY**

May 5, 2004

Chairman Quinn, Ranking Member Brown, and members of the Subcommittee, on behalf of the 35 affiliated unions of the Transportation Trades Department, AFL-CIO (TTD), I want to thank you for giving transportation labor an opportunity to testify today on our priorities and strategies for enhancing rail security.¹ As the transportation umbrella organization for the AFL-CIO, TTD has been heavily involved in the security debate across all modes of transportation. What we have learned from those debates is that security solutions are best achieved when workers are brought into the process and are treated as valued partners. We hope that Congress and this Committee will recognize this reality and draft a rail security bill that benefits from the insight of front-line workers and gives them the tools they need to help make our rail system as secure as possible.

There is little question that more must be done to improve rail security – both in the transport of passengers and freight, which I should note includes a significant amount of hazardous material. The events in Madrid served as the most recent wake-up call, but in reality we know that rail transportation, as well as public transit, have long been targets of terrorists. In fact, the first large-scale use by terrorists of a chemical weapon occurred back in 1995 in a Tokyo subway system. In addition, the Mineta Transportation Institute identified 195 terrorist attacks against surface transportation systems from 1997 through 2000. Indeed, the Department of Homeland Security has stepped up its warning for the rail industry to be on the look out for terrorist

¹ Attached at 1 is a complete list of TTD's affiliated unions. Specifically, the Rail Labor Division of the TTD consists of the following unions: American Train Dispatchers Association; Brotherhood of Locomotive Engineers and Trainmen, IBT; Brotherhood of Maintenance of Way Employees; Brotherhood of Railroad Signalmen; Hotel Employees and Restaurant Employees Union; International Association of Machinists and Aerospace Workers; International Brotherhood of Boilermakers, Blacksmiths, Forgers and Helpers; International Brotherhood of Electrical Workers; National Conference of Firemen & Oilers, SEIU; Sheet Metal Workers International Association; Transportation • Communications International Union; and Transport Workers Union of America.

Transportation Trades Department, AFL-CIO

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activities in this country. Unfortunately, beyond these vague warnings, the Administration has done little to harden vulnerable rail targets, ensure the training of employees or provide the level of funding that is so desperately needed for training, new technology deployment and infrastructure improvements.

The Transportation Security Administration (TSA) is spending \$4.4 billion this year on aviation security – an investment in aviation security we of course support – but passenger rail and transit are being left with just \$10 million. When you remember the size and scope of our rail system and infrastructure, this lack of attention and focus is hard to understand. There are over 100,000 miles of rail in the U.S. – 22,000 of miles of it used by Amtrak in 46 states and the District of Columbia. In FY 2002, Amtrak served 23.4 million passengers, or 64,000 a day. Commuter rail operations add 1.2 million passenger trips each weekday. The freight rail carriers carry 42 percent of our nation's domestic intercity freight and in 2001 alone, over 83 million tons of hazardous material.

So our rail security challenge, based just on the size of the system, is indeed daunting. In addition, we must recognize that given the open nature of our rail transportation network, we are never going to be able to secure it entirely, as it is, unlike aviation, simply not housed in a closed or controlled infrastructure. Indeed, inter-city and commuter rail is designed to be accessible and at least part of its appeal is this relative ease of use. Having said that, there are steps that must be taken to address certain security risks in the system.

As a general matter, we fully recognize that many in the industry will fight any mandates or requirements that might be imposed on them – even to enhance security. Their position will be that they know what is best and that they know how to run a railroad. Just provide them with millions in grant money and they will take care of everything else. I hope that you will reject this approach. We need to ensure that security is not left to the whims of individual carriers or cut when profit margins get tight. We must ensure a basic level of security and asking railroads to follow certain basic requirements, such as employee training, is not unreasonable.

Indeed, we need to start treating front-line employees as true partners in the effort to protect our rail system – these workers, our members, are the “eyes and ears” so to speak of the industry. They greet passengers, sell tickets, operate trains, maintain track, dispatch trains and fix cars. In short, they are in an excellent position to spot security risks and terrorist threats. And in the event that an attack does occur, our members will be on the scene and the first to respond along with firefighters and police.

But to be real partners in rail security and to play this important role, workers need more support from their employers and certain tools. First, security training for workers must be mandated. While some rail carriers might claim progress in this area, we have talked to too many workers who are not receiving any training or might be allowed to watch a one size fits all video. This is hardly going to cut it. Workers need to know how to identify a security risk and what to do in that situation. When should passengers be evacuated? Who is the contact person to report a potential risk? What actions, if any, should a worker take in a given situation? How should trains, stations or tunnels be evacuated and handled in different situations? What are the appropriate and necessary communications protocols crewmembers should follow in the event of

a security breach or incident? These are just a few of the many questions we know that workers are asking and not getting adequate answers to. In addition to formal training, technology must be provided to allow train operators to alert dispatchers and management of security developments that may arise during operations.

In addition to training, we must also ensure that workers who report or identify a security risk will not face retribution or retaliation from their employers. Simply put, a rail worker should not have to choose between doing the right thing on security and his or her job. Unfortunately, too often this is exactly what occurs in the industry when it comes to workers reporting rail safety risks and concerns.

Rail workers and their unions have long argued that despite the whistle-blower protections included in current law (49 U.S.C. § 20109), employees still experience employer harassment and intimidation when reporting accidents, injuries and other safety concerns. Indeed, in a Federal Railroad Administration (FRA) report issued in July 2002 entitled *An Examination of Railroad Yard Workers Safety* (RR02-01), the FRA conducted focus group interviews with certain groups of rail workers. The FRA stated, “Perhaps of most significance, rail labor painted a generally adversarial picture of the safety climate in the rail industry. They felt that harassment and intimidation were commonplace, and were used to pressure employees to not report an injury, to cut corners and to work faster.”

As Congress considers rail security legislation, it must address this problem by strengthening the current whistle-blower protections and ensuring that workers who report security concerns are covered by the strongest possible protections. Everyday, rail carriers and the government ask front-line workers to be more vigilant about security risks and to report possible breaches. With the right training, rail workers are more than happy to play this role. But it is disingenuous to ask workers to report problems and at the same time refuse to give them the basic protections needed to ensure that such reporting will not result in retribution from their employer. Again, I urge the Committee to send a clear message on this point – workers are to be treated as partners in enhancing security, not critics to be silenced. In fact, I would that as part of the Sarbanes-Oxley Act, Congress, on a bi-partisan basis, included whistle-blower protections for those who report shareholder fraud violations or of violations Securities and Exchange Commission rules. (See, 17 U.S.C. 1514A). Surely, if we can protect whistle-blowers who report financial security problems, we can also protect those who report rail security concerns.

We are also concerned that the use of remote control locomotives (RCLs) is replacing trained employees with unregulated technology that is a direct threat to safety and security. Attached is a resolution, unanimously adopted by TTD’s 35 affiliated unions earlier this year, that calls for the FRA to put an end to the unregulated use of RCLs² – something the agency has refused to do despite formal requests from the Brotherhood of Locomotive Engineers and Trainmen (BLET), the International Brotherhood of Teamsters (IBT), and all of transportation labor through the TTD. Also attached is a letter from IBT General President James Hoffa and BLET President Don Hahs outlining their security concerns regarding the use of RCLs.³

²Attached at 2 is the TTD resolution of RCLs.

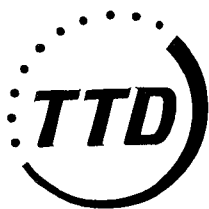
³Attached at 3 is the IBT and BLET letter on RCLs.

While I realize that our nation's largest rail carriers see RCLs as a cost saver, we must never put profits ahead of safety and security which is exactly what we doing right now. It must be remembered that RCLs are used to move cars that contain hazardous material – a serious security risk if they fall in the wrong hands. While much of RCL operations occur within the rail yard, it is not uncommon for the technology to move cars over grade crossings and several miles from the point of origin to the final destination within a terminal. Federal regulations are needed for RCL use and we need to make sure that operators are trained in this technology. Finally, requirements are need to ensure that RCL devices are in a secure location when not being used.

Our members are also increasingly concerned that rail yards and facilities are largely open areas where people can come and go virtually unchallenged. In general, we need to ensure some type of security perimeter around yards and other sensitive facilities and better access control. Indeed, I would note that shortly after the Madrid attacks Amtrak issued a security notice reminding employees to wear their identification badges despite the fact that, according to reports we have received, many employees have not actually received their credentials. This of course raises the question of how access control is being achieved in those situations. On a related issue, we need procedures in place to ensure that unattended locomotives are secured and can only be moved by authorized individuals. In addition, we note that many locomotive cabs are accessible in transport to passengers. We need to find a way to fortify this workplace which of course is also the control center for operational trains. I should note that Congress has already required the fortification of cockpit doors of commercial aircraft as part of an overall effort to secure air transport.

Achieving rail security is of course not a simple task. But we cannot allow this challenge to go unmet any longer. Two and a half years after 9/11 and in the wake of Madrid, our government and rail employers are still not doing enough to make rail transportation as secure as possible. Rail security needs and deserves attention and focus from policy makers. Carriers must be required to follow security procedures, employees must be trained and afforded whistle-blower protections, unregulated RCL use must stop, and rail yards, facilities and locomotives must be secured. All of transportation labor has a vested interest in improving rail security and Mr. Chairman and Ranking Member Brown, TTD stands ready to work with you to achieve this common agenda.

Thank you again for giving TTD an opportunity to share our views today.



TTD AFFILIATES

The following labor organizations are members of and represented by the TTD:

Air Line Pilots Association (ALPA)
Amalgamated Transit Union (ATU)
American Federation of State, County and Municipal Employees (AFSCME)
American Federation of Teachers (AFT)
Association of Flight Attendants-CWA (AFA-CWA)
American Train Dispatchers Association (ATDA)
Brotherhood of Locomotive Engineers and Trainmen (BLET)
Brotherhood of Maintenance of Way Employees (BMWE)
Brotherhood of Railroad Signalmen (BRS)
Communications Workers of America (CWA)
Hotel Employees and Restaurant Employees Union (HERE)
International Association of Fire Fighters (IAFF)
International Association of Machinists and Aerospace Workers (IAM)
International Brotherhood of Boilermakers, Blacksmiths, Forgers and Helpers (IBB)
International Brotherhood of Electrical Workers (IBEW)
International Brotherhood of Teamsters (IBT)
International Federation of Professional and Technical Engineers (IFPTE)
International Longshoremen's Association (ILA)
International Longshore and Warehouse Union (ILWU)
International Organization of Masters, Mates & Pilots, ILA (MM&P)
International Union of Operating Engineers (IUOE)
Laborers' International Union of North America (LIUNA)
Marine Engineers Beneficial Association (MEBA)
National Air Traffic Controllers Association (NATCA)
National Association of Letter Carriers (NALC)
National Federation of Public and Private Employees (NFOPAPE)
Office and Professional Employees International Union (OPEIU)
Professional Airways Systems Specialists (PASS)
Retail, Wholesale and Department Store Union (RWDSU)
Service Employees International Union (SEIU)
Sheet Metal Workers International Association (SMWIA)
Transportation • Communications International Union (TCU)
Transport Workers Union of America (TWU)
United Mine Workers of America (UMWA)
United Steelworkers of America (USWA)



REMOTE CONTROL LOCOMOTIVES: A DANGEROUS PRACTICE THAT MUST BE STOPPED

Despite mounting accidents and even deaths caused by the use of remote control locomotives (RCLs) by the nation's rail carriers, the Federal Railroad Administration (FRA), the government agency charged with ensuring rail safety, refuses to issue rules that will properly limit and regulate this dangerous practice. In fact, the formal request submitted by the Brotherhood of Locomotive Engineers and Trainmen (BLET), endorsed by transportation labor in a separate filing, for the FRA to address this problem has been ignored, with the agency insisting that not enough data has been generated to warrant regulatory action. The FRA's refusal to act ignores the reality that RCLs pose an immediate and serious safety hazard risk both to rail workers and communities and the time has come to address this growing risk to safety.

Since the major railroads began implementing this technology, the BLET has documented over 250 accidents involving remote control operations. Earlier this month, eight cars derailed at a CSX yard in Cheektowaga, New York. A local television station reported that at the time of the accident the train was being operated by remote control and quoted one anonymous worker who stated that the remote control technology has "been shoved down our throat." In the latest fatality involving this technology, a 37-year old Union Pacific switchman was struck and killed in December by a locomotive engine that he was operating alone by remote control. Unfortunately, these stories are all too common and numerous to recount.

It is not clear why the FRA has refused to act. What is clear is that the continued use of this technology without the implementation of appropriate safety measures places all rail workers at risk of injury and death. The workload associated with operating a locomotive while performing other critical safety tasks demands too much of a single individual. To date, the FRA's response has been to issue "recommended minimum guidelines." The problem is that these guidelines, as the name suggests, do not actually require carriers to adopt all the necessary safety procedures and in general do not go far enough to ensure that this technology is implemented and utilized safely. For example, a train engineer usually undergoes at least six months of training while the guidelines suggest that an individual can operate a locomotive remotely after only a week or two of training. This assumption of safety was based on a belief that skilled and experienced ground employees could operate RCLs. But the fact is that new employees entering the industry have very limited training and experience.

In issuing these guidelines in 2001, the FRA noted that its "first priority ... is to ensure that these operations [RCLs] pose no threat to railroad workers and or to the general public." The FRA further stated that "because information currently available ... does not lead to the conclusion that RCL operations should be

prohibited on safety grounds, the FRA has elected to proceed cautiously.” The time for caution and for collecting statistics is over – it should now be clear, if there was any doubt, that RCLs are dangerous and must be regulated or eliminated.

We are not the only ones who have reached this conclusion. As of January 2004, 34 different cities and 14 counties have passed remote control safety resolutions. These resolutions call upon the FRA to adopt enforceable regulations for the use of RCLs and to ensure the workers who utilize this technology have the skills and qualifications necessary to operate RCLs safely. In addition to these 48 communities, 13 different AFL-CIO State Federations have adopted similar positions on RCLs.

The problems associated with RCL use have also prompted some in Congress to ask the FRA some tough questions. In particular, Senate Commerce Committee Chairman John McCain and Ranking Democrat Ernest Hollings have asked the FRA to conduct a thorough safety audit of RCLs and to specifically compare the rate of accidents, injuries, and fatalities involving RCLs with similar operations involving manned locomotives. In addition, the Senators asked the FRA to assess the effects of remote control operations on the safety of highway grade crossings, hazardous materials transportation and the use of RCLs in urban areas. Finally, the FRA has been requested to include recommendations for legislative or regulatory changes that may be necessary.

Unfortunately, there is good reason to believe the FRA's safety assessment, derived from the collected data, will yield questionable results. It is well known that self reporting of accident/incident data by railroads has been problematic. Specifically, (1) the \$6,700 damage threshold for reporting of a rail equipment accident is determined solely by the railroad; (2) triggering events for reportable injuries are determined solely by the railroad; (3) the FRA's "Accident Reporting Guide" was revised in May of 2003, for among other reasons, to accommodate remote control accident/incident reporting and has created ambiguous reporting especially with respect to employee injuries; (4) specific accident and incident reports can be modified by the railroads even after the audit is conducted by FRA and the initial report is given to Congress; (5) the railroads use of codes such as "undetermined" or "under investigation" allows further ambiguity and will not permit conclusive findings; (6) the initial report will cover selected months and circumstances that may lower the risk for remote control operations; and (7) the exposure levels for determining the rate of accidents/incidents in remote control operations versus conventional operations are very problematic because of railroad record keeping and modification of assignments throughout the course of operations.

Given these barriers to a sound report and the FRA's history of foot dragging and delay in addressing this problems, we are concerned that once again the agency will find some excuse for why it cannot act. Nonetheless, the direct interest and involvement of the Senate Commerce Committee has already forced the FRA to take another look at RCLs and we hope that this time the agency will address the problems that transportation labor – led by the BLET and the Teamsters – has long identified.

It should be clear that safety (not profits or the illusion of productivity gains) must be the number one priority in rail operations. Yet unregulated RCLs, a proven safety risk and condemned by rail workers, local communities, elected leaders and labor organizations throughout the country, remain in use. It is time for regulators and legislators to put an end to this practice and make sure that new technologies are used to enhance, not erode, rail safety standards.

Policy Statement No. W04-05

Adopted March 7, 2004



Brotherhood of Locomotive Engineers and Trainmen

A Division of the Rail Conference—International Brotherhood of Teamsters

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April 7, 2004

Dear Member of Congress:

The recent terrorist attacks on passenger trains in Madrid sent a shudder down the backs of all railroad workers and the public in this country. The attacks on trains brought to mind the horrific consequences of this nation's long neglect of both passenger and freight rail security.

Each day, thousands of people travel on this nation's passenger and commuter railroads. Each day, millions of tons of freight, including hazardous materials, are carried in and around cities and towns across this country. The miles of rail tracks crisscrossing this nation have been largely ignored as a target for terror, but the attacks in Madrid have served as a tragic wake-up call for all Americans.

For many years, the crews aboard trains have served as a vital safeguard against terror on our nation's railroads. The nature of the open railroad environment requires vigilance by our members in order to guard the safety of trains and rail infrastructure. However, the first line of defense, the trained eye, at some of our rail terminals where remote control is used, is not aboard. These men and women who serve as the eyes and ears of rail safety are being taken away from their posts in the rail terminals by railroad executives who are putting profits above safety and security. Remote control locomotive technology is being implemented by railroads across this nation in the name of profits but in doing so, it is endangering our national security. As we saw in Madrid, railroads are an easy target. Unlike airplanes, trains travel on the ground where they are left vulnerable. There is no screening of passengers or baggage. With no human aboard, a chemical spill may go unnoticed, a bomb may not be spotted, or hijacker may not be stopped.

Remote control is not a collective bargaining issue, as some would lead you to believe. The Brotherhood of Locomotive Engineers and Trainmen (BLET) has always believed that remote control technology is, as it is currently being implemented and overseen, an unsafe way to operate trains. The Federal Railroad Administration, thus far, only issued guidelines for the implementation of remote control technology. These


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guidelines are often loosely interpreted, and in other cases, completely ignored by the railroads, resulting in deaths, amputations and injuries, and several hundred accident/incidents since its implementation.

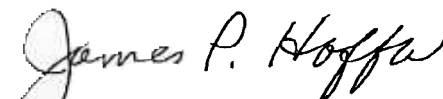
More than fifty communities across the U.S. support our belief that remote control technology in its current form is unsafe. These communities have passed resolutions opposing remote control operations in their areas and in many cases, have cited fears of terrorism as a reason for passage.

The tragedy in Spain has brought to light the fact that trains are opportune targets for terror. We must fortify our nation's railroads by actively assessing the risk to security of their operations. The use of remote control locomotives reduces the level of security and leaves trains more open to attack. In the coming weeks, the Teamsters Union and the BLET will be contacting you about the unsafe and unsecured operations of remote control locomotives. We urge you to listen carefully, as this practice puts safety and security on the side rail and railroad profits on the main track.

Sincerely,



Don M. Hahs, President
Brotherhood of Locomotive Engineers
and Trainmen



James P. Hoffa, General President
International Brotherhood of Teamsters

DMH/JPH/cwl